

APPEAL NO. 020291
FILED MARCH 19, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 2, 2002. The hearing officer determined that the respondent (claimant) had sustained a compensable (low back) injury on _____, and that he had disability from _____, through January 2, 2002.

The appellant (carrier) appeals, asserting that the hearing officer's determinations are against the great weight and preponderance of the evidence, are not supported by the evidence, are not supported by legally sufficient evidence, or are arbitrary and in error. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

We have reviewed the complained-of determinations and insofar as they involve conflicting evidence of whether the claimant injured himself on _____, _____, or _____, and whether the claimant's condition was a new injury or merely subjective complaints regarding degenerative conditions and conflicting medical reports, these all involve questions of fact. The hearing officer is the sole judge of the weight and credibility of the evidence (Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)), and determines what facts have been established from the conflicting evidence. St. Paul Fire & Marine Insurance Company v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). Similarly, whether the claimant had disability as defined in Section 401.011(16) and, if so, for what length of time, are also fact questions for the hearing officer to resolve.

We conclude that the hearing officer's decision on the appealed determinations is supported by the evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750
COMMODORE 1
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Edward Vilano
Appeals Judge